

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

Mortgage Grader, Inc.

Plaintiff,

V.

BankLoans.com LLC,

Mortgagebot LLC,

Zillow Inc.,

Amerisave Mortgage Corp.,

American Internet Mortgage Inc., and

American Heritage Capital LP d/b/a

AHC Lending

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Mortgage Grader, Inc. (“Plaintiff”), by and through its undersigned counsel, files this Original Complaint against BankLoans.com LLC, Mortgagebot LLC, Zillow Inc., Amerisave Mortgage Corp., American Internet Mortgage Inc. and American Heritage Capital LP d/b/a AHC Lending (collectively “Defendants”) as follows:

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendants' infringement of Plaintiff's United States Patent No. 7,366,694 entitled "Credit/Financing Process" (the "'694 patent"; a copy of which is attached hereto as Exhibit A). Plaintiff is the legal owner of the patent-in-suit. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff is a corporation organized and existing under the laws of the State of Delaware. Plaintiff maintains a place of business at 104 E. Houston Street, Suite 173, Marshall, Texas 75670. Plaintiff is the assignee of all rights, title, and interest in and to the '694 patent including the right to sue for infringement and recover past damages.

3. Upon information and belief, BankLoans.com LLC ("BankLoans.com") is a limited liability company organized and existing under the laws of the State of Virginia, with its principal place of business located at 9554 Old Keene Mill Road, Suite F, Burke, Virginia 22015.

4. Upon information and belief, Mortgagebot LLC ("Mortgagebot") is a limited liability company organized and existing under the laws of the State of Wisconsin, with its principal place of business located at 1000 West Donges Bay Road, Suite 200, Mequon, Wisconsin 53092.

5. Upon information and belief, Zillow Inc. ("Zillow") is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 999 3rd Ave, Suite 4600, Seattle, Washington 98104.

6. Upon information and belief, Amerisave Mortgage Corporation ("Amerisave Mortgage") is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business located at One Capital City Plaza, 3350 Peachtree Road, NE, Suite 1000, Atlanta, Georgia 30326.

7. Upon information and belief, American Internet Mortgage, Inc. ("AIM") is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 4121 Camino Del Rio South, San Diego, California 92108.

8. Upon information and belief, American Heritage Capital, LP d/b/a AHC Lending (“American Heritage”) is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at 2300 Valley View Lane, Suite 1000, Irving, Texas 75062.

JURISDICTION AND VENUE

9. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

10. The Court has personal jurisdiction over each Defendant because: each Defendant has minimum contacts within the State of Texas and the Eastern District of Texas; each Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in the Eastern District of Texas; each Defendant has sought protection and benefit from the laws of the State of Texas; each Defendant regularly conducts business within the State of Texas and within the Eastern District of Texas; and Plaintiff’s causes of action arise directly from Defendants’ business contacts and other activities in the State of Texas and in the Eastern District of Texas.

11. More specifically, each Defendant, directly and/or through intermediaries, ships, distributes, offers for sale, sells, and/or advertises, at least through and by its interactive website, its products and services in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, each Defendant has committed patent infringement in the State of Texas and in the Eastern District of Texas, has contributed to patent infringement in the State of Texas and in the Eastern District of Texas, and/or has induced others to commit patent

infringement in the State of Texas and in the Eastern District of Texas. Each Defendant solicits customers in the State of Texas and in the Eastern District of Texas. Each Defendant has many customers who are residents of the State of Texas and the Eastern District of Texas and who each use respective Defendant's products and services in the State of Texas and in the Eastern District of Texas.

12. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I – PATENT INFRINGEMENT

13. The '694 patent was duly and legally issued by the United States Patent and Trademark Office on April 29, 2008 after full and fair examination. Plaintiff is the assignee of all rights, title, and interest in and to the '694 patent, and possesses all rights of recovery under the '694 patent, including the right to sue for infringement and recover past damages.

14. Upon information and belief, BankLoans.com has infringed and continues to infringe one or more claims of the '694 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, an online mortgage marketplace, including via the website <http://www.bankloans.com>. Upon information and belief, BankLoans.com has also contributed to the infringement of one or more claims of the '694 patent, and/or actively induced others to infringe one or more claims of the '694 patent, in this district and elsewhere in the United States.

15. Upon information and belief, Mortgagebot has infringed and continues to infringe one or more claims of the '694 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, an online

mortgage marketplace, including via the website <http://www.mortgagemarvel.com>. Upon information and belief, Mortgagebot has also contributed to the infringement of one or more claims of the '694 patent, and/or actively induced others to infringe one or more claims of the '694 patent, in this district and elsewhere in the United States.

16. Upon information and belief, Zillow has infringed and continues to infringe one or more claims of the '694 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, an online mortgage marketplace, including via the website <http://www.zillow.com>. Upon information and belief, Zillow has also contributed to the infringement of one or more claims of the '694 patent, and/or actively induced others to infringe one or more claims of the '694 patent, in this district and elsewhere in the United States.

17. Upon information and belief, Amerisave Mortgage has infringed and continues to infringe one or more claims of the '694 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, an online mortgage marketplace, including via the website <http://www.amerisave.com>. Upon information and belief, Amerisave Mortgage has also contributed to the infringement of one or more claims of the '694 patent, and/or actively induced others to infringe one or more claims of the '694 patent, in this district and elsewhere in the United States.

18. Upon information and belief, AIM has infringed and continues to infringe one or more claims of the '694 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, an online mortgage marketplace, including via the website <http://www.aimloan.com>. Upon information and belief, AIM has also contributed to the infringement of one or more claims of the '694 patent, and/or

actively induced others to infringe one or more claims of the '694 patent, in this district and elsewhere in the United States.

19. Upon information and belief, American Heritage has infringed and continues to infringe one or more claims of the '694 patent by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, an online mortgage marketplace, including via the website <http://www.ahclending.com>. Upon information and belief, American Heritage has also contributed to the infringement of one or more claims of the '694 patent, and/or actively induced others to infringe one or more claims of the '694 patent, in this district and elsewhere in the United States.

20. Each Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

21. Plaintiff is entitled to recover from the Defendants the damages sustained by Plaintiff as a result of the Defendants' wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

22. Defendants' infringement of Plaintiff's exclusive rights under the '694 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

23. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court find in its favor and against Defendants, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the '694 patent have been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendants' acts of infringement together with pre-judgment and post-judgment interest;
- C. That one or more of the Defendants' acts of infringement be found to be willful from the time that Defendants became aware of the infringing nature of their actions, which is the time of filing of Plaintiff's Original Complaint at the latest, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- D. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of (1) infringement, (2) contributory infringement, and (3) actively inducing infringement with respect to the claims of the '694 patent;
- E. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with 35 U.S.C. §285; and
- F. Any further relief that this Court deems just and proper.

Dated: October 15, 2009

Respectfully submitted,

By: /s/ Andrew Spangler
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**ATTORNEYS FOR PLAINTIFF,
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